

# STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION  
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INDIANAPOLIS, INDIANA 46204-2764

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IN THE MATTER OF THE PETITION )  
OF BITWISE COMMUNICATIONS, )  
INC. FOR A CERTIFICATE OF )  
TERRITORIAL AUTHORITY TO )  
PROVIDE FACILITIES-BASED AND )  
RESOLD INTEREXCHANGE, )  
SWITCHED AND DEDICATED )  
ACCESS, AND FACILITIES-BASED )  
AND RESOLD LOCAL EXCHANGE )  
TELECOMMUNICATIONS SERVICES )  
INCLUDING CALLER ID SERVICE )  
THROUGHOUT THE STATE OF )  
INDIANA, AND FOR AN ORDER BY )  
THE INDIANA UTILITY )  
REGULATORY COMMISSION )  
DECLINING TO EXERCISE ITS )  
JURISDICTION PURSUANT TO IND. )  
CODE SECTION 8-1-2.6 TO THE )  
MAXIMUM EXTENT ALLOWED )  
BY LAW )

CAUSE NO. 42741

**FILED**

OCT 29 2004

INDIANA UTILITY  
REGULATORY COMMISSION

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") caused the following entry to be made:


On October 19, 2004, BitWise Communications, Inc. ("Petitioner" or "BitWise") filed a *Verified Petition* ("Petition") seeking a Certificate of Territorial Authority to provide certain services within the State of Indiana. Pursuant to I.C. §§ 8-1-2-29 and 5-14-3-4(a)(4), Petitioner simultaneously filed a *Request for Confidential Treatment of Information* ("Request") seeking confidential treatment of proprietary financial statements it anticipates filing in support of the Petition. In its Request, BitWise indicates that it plans to submit these confidential financial statements in this Cause as "Confidential Exhibit 4" ("Confidential Information"). BitWise argues that the Confidential Information is competitively sensitive, and that granting public access would place BitWise at a significant competitive disadvantage and provide competitors with information regarding BitWise's financial and business strategies. BitWise alleges commercial and competitive injury if the Confidential Information were disclosed, and thus seeks protection of the Confidential Information as a trade secret as that term is defined under I.C. § 24-2-3-2. Information containing trade secrets is excepted from public disclosure under I.C. § 5-14-3-4(a)(4). In support of its Request, BitWise submitted the Affidavit of its CEO, Michael Shuler ("Affidavit"). The Affidavit has been

placed in the Commission's official file in this matter and is hereby incorporated by reference.

170 IAC 1-1.1-4 governs the submission of confidential or privileged information to the Commission and requires the applicant to request a finding by the Commission that the information is confidential. The application must be accompanied by the sworn statement or testimony of a party that describes: 1) the nature of the confidential information; 2) the reasons why the information should be treated as confidential pursuant to I.C. § 8-1-2-29 and I.C. § 5-14-3; and 3) the efforts the party has made to maintain the confidentiality of the information.

The Presiding Officer, having considered Petitioner's Motion and accompanying Verification, hereby finds there are sufficient grounds for a determination that the Confidential Information should be held as confidential by the Commission on a preliminary basis. Accordingly, Petitioner shall hand deliver to the Presiding Administrative Law Judge, in a sealed envelope clearly marked 'CONFIDENTIAL' and with the Cause Number noted thereon, the Confidential Information which shall be treated as confidential on a preliminary basis and excepted from public disclosure in accordance with I.C. § 5-14-3.

**IT IS SO ORDERED.**



Andrea L. Brandes, Administrative Law Judge

Date: October 29, 2004